



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bell, Boyd & Lloyd LLC
P.O Box 1135
Chicago IL 60690-1135

MAILED

AUG 27 2010

In re Application of :
Baerlocher :
Application No. 10/649,091 : ON APPLICATION FOR
Filed: August 27, 2003 : PATENT TERM ADJUSTMENT
Docket No. 0112300-1411 :
:

OFFICE OF PETITIONS

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed June 30, 2010.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred ninety (390) days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 12, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 512 days. On June 30, 2010, applicant submitted the instant petition. Applicant discloses that he believes that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated in light of the information disclosure statement, filed December 4, 2008.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an Information Disclosure Statement filed on December 4, 2008. After applicant filed a reply on August 4, 2008 to a non-final Office action, applicant submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on December 4, 2008. The record does not support a conclusion that the examiner expressly requested

the filing of the IDS. Further, a review of the IDS, filed December 4, 2008, reveals that applicant did not include a statement under 37 CFR 1.704(d).¹ Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 122 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, August 5, 2008, and ending on the date that the IDS was filed, December 4, 2008. Accordingly, a period of reduction of 122 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **three hundred ninety (390) days** (640 days of Office delay - 250 days of applicant delay).

The Office acknowledges receipt of the required \$200.00 fee under 37 CFR 1.18(e) is required.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

¹ Pursuant to 37 CFR § 1.704(d):

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

CC: K&L GATES LLP
P.O. BOX 1135
CHICAGO, IL 60690

PALM INTRANET

PTA Calculations for Application: 10/649091			
Application Filing Date:	08/27/2003	PTO Delay (PTO):	640
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	128
Post-Issue Petitions:	0	Total PTA (days):	390
PTO Delay Adjustment:	-122		

File Contents History						
Number	Date	Contents Description	PTO	APPL	START	
105	08/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		122		
95	04/09/2010	ISSUE REVISION COMPLETED				
94	04/09/2010	DOCUMENT VERIFICATION				
93	04/09/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED				
92	04/09/2010	EXAMINER'S AMENDMENT COMMUNICATION				
91	04/08/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)				
90	04/09/2010	NOTICE OF ALLOWABILITY				
85	03/23/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)				
84	03/16/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)				
83	02/12/2010	MAIL APPEALS CONF. PROCEED TO BPAI				
82	02/05/2010	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI				
81	12/23/2009	REQUEST FOR PRE-APPEAL CONFERENCE FILED				
80	12/23/2009	NOTICE OF APPEAL FILED				
79	12/24/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)				
78	12/16/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)				
77	09/28/2009	MAIL FINAL REJECTION (PTOL - 326)				
76	09/25/2009	FINAL REJECTION				
73	07/24/2009	DATE FORWARDED TO EXAMINER				
72	06/10/2009	RESPONSE TO ELECTION / RESTRICTION FILED				
71	05/27/2009	MAIL RESTRICTION REQUIREMENT				

70	05/26/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
69	03/09/2009	DATE FORWARDED TO EXAMINER			
68	01/30/2009	RESPONSE AFTER NON-FINAL ACTION			
67	12/24/2008	MAIL NON-FINAL REJECTION	20		59
66	12/22/2008	NON-FINAL REJECTION			
65	12/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	12/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	10/03/2008	DATE FORWARDED TO EXAMINER			
59	08/04/2008	RESPONSE AFTER NON-FINAL ACTION			
58	07/07/2008	MAIL NON-FINAL REJECTION			
57	07/03/2008	NON-FINAL REJECTION			
52	06/16/2008	DATE FORWARDED TO EXAMINER			
51	04/30/2008	AMENDMENT AFTER FINAL REJECTION			
50	02/06/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT	50	41	
49	03/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
48	03/17/2008	FINAL REJECTION			
47	02/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	02/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	01/09/2008	DATE FORWARDED TO EXAMINER			
41	12/18/2007	RESPONSE AFTER NON-FINAL ACTION	61	39	
40	12/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	07/18/2007	MAIL NON-FINAL REJECTION			
38	07/16/2007	NON-FINAL REJECTION			
37	05/18/2007	DATE FORWARDED TO EXAMINER			
36	05/16/2007	RESPONSE AFTER NON-FINAL ACTION	17	31	
35	05/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/03/2007	LETTER REQUESTING INTERVIEW WITH EXAMINER			
33	05/09/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	03/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	01/29/2007	MAIL NON-FINAL REJECTION	65	26	
30	01/22/2007	NON-FINAL REJECTION			

29	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	07/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	07/27/2006	DATE FORWARDED TO EXAMINER			
26	07/25/2006	RESPONSE AFTER NON-FINAL ACTION			
25.7	07/25/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
25	07/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/05/2006	MAIL NON-FINAL REJECTION	555		-1
23	05/01/2006	NON-FINAL REJECTION			
22	06/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	04/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	09/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	02/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	06/17/2004	REFERENCE CAPTURE ON IDS			
17.7	06/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/12/2004	REFERENCE CAPTURE ON IDS			
15.7	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	01/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	11/18/2003	APPLICATION RETURN FROM OIPE			
11	11/19/2003	APPLICATION IS NOW COMPLETE			
10	11/19/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
9	11/18/2003	APPLICATION RETURN TO OIPE			
8	11/18/2003	APPLICATION RETURN FROM OIPE			
7	11/18/2003	APPLICATION RETURN TO OIPE			
6	11/18/2003	APPLICATION DISPATCHED FROM OIPE			
5	11/19/2003	APPLICATION IS NOW COMPLETE			
4	11/10/2003	CASE CLASSIFIED BY OIPE			
3	11/10/2003	CLEARED BY OIPE CSR			

2	10/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW				
1	08/27/2003	INITIAL EXAM TEAM NN				

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | Home page